

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 4622 of 2005

Between:

V. Sreenivasulu, S/o. Sri Sankaranna,
Operation APSPDCL, Rural Section, Old Power House Compound,
Kadapa.

..... PETITIONER

AND

1 The Chairperson & Managing Director,

A.P. Transmission Corporation Ltd.
Vidyut Soudha, Khairatabad, Hyderabad.

2 The Chairperson & Managing Director,

Southern Power Distribution Company of AP Ltd.
Tirupati

3 Sueprintending Engineer (Operation Circle)

Southern Power Distribution Companya of AP Ltd.
Kadapa.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue an Order, Direction or a Writ particularly one in the nature of WRIT OF CERTIORARI and Quash the Memo No. SE/O/KDP/Adm/C1/F.5/D.No. 3028/04 dated 18-12-2004 after calling for the records from the third respondent and consequently pay the arrears of salary attributable to the post of Assistant Engineer for the period 20-9-1996 to 22-1-2002 and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case

Counsel for the Petitioner: MR.S.RAVINDRANATH

Counsel for the Respondent Nos.1 to 3: MR.KISHORE SAMINENI (SC FOR AP TRANSCO)

The Court at the admission stage made the following:

ORDER:

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Challenging the Memo No.SE/O/KDP/Adm/C1/F.5/D No.3028/04, dated 18.12.2004, issued by the 2nd respondent, the present writ petition is filed.

The petitioner was selected as a Sub-Engineer on 10.08.1992. He worked in that capacity up to 31.08.1995. Thereafter, he was posted as Sub-Engineer against the post of AE/Assistant Additional Engineer/Maintenance at 132KSS Rayachoti. He was relieved and joined at Rayachoti and discharged duties for the post of Assistant Additional Engineer (for short 'AAE') till 22.01.2002. During that period from 20.09.1996 to 22.01.2002 he discharged the functions of AAE, and therefore, he is entitled for salary, attributable to the post of AAE. Hence the present writ petition.

The learned Counsel for the petitioner contended that since the petitioner has discharged the duties against the post of AAE, he is entitled for salary from 20.09.1996 to 22.01.2002. He also relied upon an unreported decision, rendered by this Court, in W.P.No.2984 of 1996 between ***S.Rajasekhara Reddy and others vs. The Rayachoty Rural Electric Supply Cooperative Society Limited, Rayachoty.***

On the other hand, the learned standing Counsel, appearing for the respondents, opposed the writ petition, and stated that the petitioner was transferred as Sub-Engineer, duly counting against the post of AAE for administrative convenience, and therefore, he is not entitled for salary for the post attached to AAE, since he was not promoted to that post during the period from 20.09.1996 to 22.01.2002.

Initially the petitioner was recruited as Sub-Engineer on 10.08.1992. By proceedings dated 20.09.1996, issued by the AAE, Rayachoti, the petitioner was directed to report duties as Sub-Engineer, counted against the post of AE/AAE/Maintenance,

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Sub-Station, Rayachoti. In pursuance of those proceedings, the petitioner joined as AAE. Accordingly, the petitioner reported duty, as per his letter, dated 20.09.1996. Till January 2002, the petitioner worked as AAE. It is not the case of transferring the petitioner to the post of AAE as incharge or additional charge of that post. Since he was posted against the post of AAE, and since September, 1996 till January, 2002 he worked as AAE, he is entitled for salary attached to that post, though he was not given any promotion to the post of AAE.

In similar circumstances, this Court, by order, dated 28.02.1997, passed in W.P.No.2984 of 1996, held that

“As long as it is not disputed that the petitioners are required to discharge the duties of the post of Additional Assistant Engineer, they are entitled to the salary attributable to the post, when they ceased to discharge more functions only they will cease to be entitled to that salary.”

The learned counsel for the respondents contended that since the issue in this writ petition is relating to Rural Electric Supply Cooperative Societies Limited, the above decision has no application. But the fact remains that when the petitioner worked as Sub-Engineer, he was transferred for administrative convenience, duly counting against the post of AAE, and the petitioner discharged functions of AAE, either in charge or additional charge to that post, and hence, he is entitled for salary, attributable to the post of AAE for the period from 20.09.1996 to 22.01.2002.

For the foregoing reasons, the Writ Petition is allowed. The Respondents are directed to pay the salary to the petitioner, attributable to the post of AAE, for the period from 20.09.1996 to 22.01.2002, within a period of 6 (six) weeks from the date of receipt of a copy of this order.

Dated: 14.03.2005

Dsr

ASSISTANT REGISTRAR

To:

1. The Chairperson & Managing Director,

A.P.Transmission Corporation Limited,
Vidyut Soudha, Khairatabad, Hyderabad

2. The Chairperson & Managing Director,
Southern Power Distribution Company of A.P.Limited,
Tirupati

3. The Superintending Engineer (Operation Circle)
Southern Power Distribution Company of A.P.Ltd.,
Kadapa

4. Two CD copies

*Form-NIC-OGS/WP{**RLD**}*